

Message Text

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PAGE 01 STATE 052025
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CIAE-00 COME-00 DODE-00 FRB-01 H-02 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00 AID-05
SS-15 STR-07 ITC-01 TRSE-00 USIA-15 SP-02 SOE-02
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FM SECSTATE WASHDC
TO AMEMBASSY TOKYO
AMEMBASSY PARIS
AMEMBASSY BRUSSELS
USMISSION GENEVA

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ALSO FOR USOECD, USEEC, US DEL MTN

E.O. 11652:N/A

TAGS: ETRD

SUBJECT: WELDED STAINLESS STEEL PIPE AND TUBE (WSST):
USITC ISSUES ORDER DIRECTING CERTAIN JAPANESE FIRMS TO
CEASE AND DESIST FROM UNFAIR METHODS OF COMPETITION

REF: (A) STATE 1977 A-5110 (B) STATE 36272

1. ON FEBRUARY 22, FOLLOWING THE DETERMINATION REPORTED
IN REFTEL (B) THAT CERTAIN JAPANESE MANUFACTURING,EXPORT-
ING AND IMPORTING FIRMS WERE ENGAGED IN THE IMPORTATION
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PAGE 02 STATE 052025

AND SALE OF CERTAIN WSST IN VIOLATION OF SECTION 337,
THE USITC ISSUED AN ORDER DIRECTING THE FIRMS NAMED IN
PARA THREE OF REFTEL (B) TO CEASE AND DESIST FROM THE
PRACTICE OF IMPORTING OR SELLING (OR BOTH) SUCH PIPE
AND TUBE QUOTE AT PRICES LOWER THAN THE AVERAGE VARIABLE
COST OF PRODUCTION OF SAID PRODUCT WITHOUT COMMERCIAL
JUSTIFICATION END QUOTE.

2. IN THE CASE OF A RESPONDENT JAPANESE MANUFACTURER THE ORDER STIPULATES THAT IT SHALL NOT SELL FOR EXPORT TO THE UNITED STATES, WITHOUT COMMERCIAL JUSTIFICATION, ANY WSST MANUFACTURED IN JAPAN AT A PRICE THAT IS BELOW THE REASONABLY ANTICIPATED MARGINAL COST. IN DETERMINING WHETHER COSTS ARE QUOTE REASONABLY ANTICIPATED END QUOTE THE COMMISSION WILL ASSUME THAT PRICES ABOVE AVERAGE VARIABLE COST, AS CALCULATED BY METHODS THAT ARE REASONABLY CONSISTENT FOR EACH RESPONDENT MANUFACTURER FROM YEAR TO YEAR, ARE ABOVE REASONABLY ANTICIPATED MARGINAL COST.

IN THE CASE OF A RESPONDENT JAPANESE EXPORTER OR IMPORTER, THE ORDER STIPULATES THAT NEITHER SHALL SELL OR OFFER FOR SALE IN THE UNITED STATES, WITHOUT COMMERCIAL JUSTIFICATION, WSST MANUFACTURED IN JAPAN AT A PRICE THAT IS BELOW THE REASONABLY ANTICIPATED MARGINAL COSTS OF THE MANUFACTURER PLUS INCIDENTAL COSTS OF THE RESPONDENT EXPORTER OR IMPORTER. IN DETERMINING WHETHER A RESPONDENT EXPORTER AND IMPORTER HAS COMPLIED WITH THE ORDER THE COMMISSION WILL IMPUTE KNOWLEDGE OF SUPPLIER'S COSTS TO RESPONDENT EXPORTERS AND IMPORTER WHICH MAY BE REBUTTED BY THE SUPPLIER'S AFFIDAVIT UNDER OATH THAT (1) IT WILL NOT SUPPLY ITS COSTS TO THE RESPONDENT EXPORTERS OR IMPORTER AND (2) ITS PRICE IN THE TRANSACTION IN QUESTION IS NOT LESS THAN THE ORIGINAL MANUFACTURER'S UNCLASSIFIED

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PAGE 03 STATE 052025

REASONABLY ANTICIPATED MARGINAL COST.

3. FOR THE PURPOSES OF THE ORDER, THE TERM (1) MARGINAL COST IS DEFINED AS THE INCREMENT TO TOTAL COST THAT RESULTS FROM PRODUCING AN ADDITIONAL INCREMENT OF OUTPUT; (2) AVERAGE VARIABLE COST OF PRODUCTION AS THE SUM OF ALL COSTS THAT VARY WITH CHANGES IN OUTPUT DIVIDED BY OUTPUT, AND INCLUDES, BUT IS NOT LIMITED TO THE COST OF ALL RAW MATERIALS AND ENERGY PLUS DIRECT LABOR; AND (3) COMMERCIAL JUSTIFICATION AS A REASON FOR PRICING OTHER THAN AS PRESCRIBED IN THE ORDER, WHICH REASON INDICATES THAT SUCH PRICING WAS NOT INTENDED TO INJURE COMPETITION IN THE UNITED STATES IN TRADE IN WSST.

4. THE USITC WILL MONITOR THE ORDER, WHICH BECOMES EFFECTIVE MARCH 1, FOR COMPLIANCE UNTIL DECEMBER 31, 1982, UNLESS EARLIER MODIFIED OR REVOKED BY THE COMMISSION. RESPONDENT MANUFACTURERS, EXPORTERS AND IMPORTERS ARE DIRECTED TO FILE INFORMATION SUFFICIENT IN FORM AND DETAIL THAT THE COMMISSION CAN DETERMINE WHETHER THERE IS COMPLIANCE. THE FIRST REPORT IS DUE 120 DAYS AFTER THE DATE THE ORDER BECOMES FINAL. SUBSEQUENT REPORTS

ARE DUE ANNUALLY, WITH THE SECOND REPORT DUE ON A

DATE NOT LATER THAN TWO MONTHS AFTER THE END OF EACH RESPONDENT'S FISCAL YEAR. A FORM FOR ALL REPORTS WILL BE PROVIDED RESPONDENTS BY THE COMMISSION. FAILURE TO REPORT WILL CONSTITUTE A VIOLATION OF THE ORDER. FYI. THE RESPONDENTS FAILED TO SUPPLY ANY OF THE INFORMATION REQUESTED BY THE COMMISSION DURING THE COURSE OF THE INVESTIGATION. END FYI.

5. THE ORDER ALSO DIRECTS EACH RESPONDENT MANUFACTURER TO MAINTAIN BUSINESS AND ACCOUNTING RECORDS ON A BASIS CONSISTENT FROM YEAR TO YEAR SUCH THAT (A) PRICES AND ALL COSTS OF PRODUCING WSST IN JAPAN AND (B) EACH UNCLASSIFIED

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PAGE 04 STATE 052025

RESPONDENT MANUFACTURER'S TOTAL PRODUCTION FOR EXPORT FROM JAPAN TO THE UNITED STATES OF SUCH PIPE AND TUBE MAY BE DETERMINED BY EXAMINING SUCH RECORDS. ALL RESPONDENTS ARE DIRECTED TO MAINTAIN RECORDS ADEQUATE TO SHOW EACH RESPONDENT'S PROFITS AND LOSSES BY FISCAL YEAR FOR THEIR OPERATIONS RELATING TO WSST MANUFACTURED IN JAPAN FOR EXPORT TO THE UNITED STATES.

6. IN ADDITION, THE USITC WILL HAVE ACCESS TO THE BUSINESS AND ACCOUNTING RECORDS AND RELATED DOCUMENTS OF EACH RESPONDENT FOR THE PURPOSE OF VERIFYING INFORMATION SUBMITTED IN REQUIRED REPORTS, BUT ANY INFORMATION OBTAINED FROM THE REPORTS AND RECORDS WILL BE KEPT CONFIDENTIAL, EXCEPT AS REQUIRED IN THE COURSE LEGAL PROCEEDINGS RELATING TO THE ENFORCEMENT OF THE ORDER OR AS OTHERWISE REQUIRED BY LAW.

7. IF THE CEASE AND DESIST ORDER IS VIOLATED, THE COMMISSION MAY GO TO COURT FOR ENFORCEMENT OR ISSUE AN EXCLUSION ORDER BARRING THE PRODUCTS FROM ENTRY INTO THE UNITED STATES.

8. AS REPORTED IN PARA FIVE OF REFTEL (B) THE PRESIDENT HAS SIXTY DAYS FROM FEBRUARY 23 (THE DATE OF THE RECEIPT OF THE REPORT FROM THE USITC) TO DETERMINE WHETHER THE ORDER SHOULD BE ALLOWED TO STAND OR BE DISAPPROVED FOR POLICY REASONS. AN INTERAGENCY TASK FORCE IS EXAMINING THE COMMISSION'S REPORT AND ORDER AND WILL FORMULATE A RECOMMENDATION FOR FINAL DECISION BY THE PRESIDENT.

9. STR WILL SHORTLY PUBLISH A NOTICE IN THE FEDERAL REGISTER PROVIDING INTERESTED PARTIES, INCLUDING GOVERNMENTS, AN OPPORTUNITY TO PRESENT INFORMATION AND UNCLASSIFIED

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PAGE 05 STATE 052025

VIEWS ON POSSIBLE PRESIDENTIAL APPROVAL OF THE COMMISSION
DETERMINATION OR DISAPPROVAL FOR POLICY REASONS PURSUANT
TO SECTION 337 (G)(2).

10. COPY OF USITC ORDER AND REPORT OF INVESTIGATION
AIR POUCHED. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: STAINLESS STEELS, TUBES
Control Number: n/a
Copy: SINGLE
Draft Date: 28 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
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Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
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Disposition History: n/a
Disposition Reason:
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Document Source: CORE
Document Unique ID: 00
Drafter: WTDIROLL:JH
Enclosure: n/a
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Errors: N/A
Expiration:
Film Number: D780093-0738
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1978/newtext/t1978021/aaaaaasc.tel
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